1421.

SUPREME COURT OF THE UNITED STATES.

No. 229.

THE UNITED STATES, APPELLANTS,

vs.

THOMAS POWER'S HEIRS.

APPEAL FROM THE DISTRICT COURT UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

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GIDEON, Printer.

Eastern district of Louisiana, United States district court, sitting at New Orleans—in chancery.

HEIRS OF POWER
versus
THE UNITED STATES. } No. 146.

Land cause.

Be it known and remembered, that heretofore, to wit, on the thirtieth day of May, anno domini one thousand eight hundred and forty-nine, being at the May term of said year of the said court, the heirs and legal representatives of Thomas Power, deceased, came, by their solicitors, Janin and Taylor, esquires, into the clerk's office, and there filed their petition, which is in the words and figures following, to wit:

The State of Louisiana, U. S. district court, district of Louisiana.

HEIRS OF THOMAS POWER
vs.
THE UNITED STATES.

To the honorable district court of the United States, for the district of Louisiana.

The petition of Félicité Blanche Power, the widow of Jean Baptiste Vidal, and Michael Commagère, the latter herein acting as natural tutor of Thomas Emile, Joséphine Alcidée, Antonia Athénaïs, and Cécile Blanche Commagère, his four minor children, and the issue of his marriage with the late Joséphine Power, the heirs and legal representatives of Thomas Power, deceased, respectfully showeth:

That in the year 1803, to wit, on or about the day of October, 1803, Thomas Power, then a resident of that part of the late province of Louisiana, now comprised in the State of Louisiana, obtained from Don Ventura Morales, then the chief of the financial and land department of said province of Louisiana, and of West Florida, under the government of Spain, a concession by purchase (titulo de venta) for thirty thousand superficial arpens of land, situated in the jurisdiction of Baton Rouge, (jurisdiccion de Baton Rouge,) now a part of Louisiana; and that on or before the 23d of December, 1803, Carlos Trudeau, then royal surveyor of the said province, in obedience to an order of survey made by the said Morales, in his capacity of intendant general, (intendente general,) surveyed in favor of the said Power twenty-two thousand seven hundred and ninety-two superficial arpens, in seven distinct tracts or parcels, as follows:

1st. One of 9,450 supercial arpens, situated in the St. Helena district, (barrio de Santa Helena,) on the right bank of the Amite river, and fronting thereon about nine miles from the parallel of the 31st degree of north latitude; bounded on the east by the Amite river, on the

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...of said Curtis, and on the south by another tract surveyed ... the said Power.

2d. One of 676 superficial arpens, situated in the same district of St. Helena, fronting on the right bank of the said Amite river, about fifteen miles south of the said parallel of latitude, and bounded on the east by the said river Amite, and on the north and south by lands surveyed in favor of the said Power.

3d. One of 5,850 superficial arpens, also in the same district of St. Helena, on the right bank of the said Amite river, and fronting thereon about sixteen miles from the said parallel of latitude, bounded on the north by other land surveyed in favor of the said Power, and on the other sides by public lands.

4th. One of 6,109 superficial arpens, situated in the Notalbany district (barrio de Nitalbany,) on the left bank of the said river Amite, and fronting thereon, bounded on all sides by vacant lands.

5th. One of 9½ superficial arpens, situated in the Tickfaw district, (barrio de Tickfau,) on the left bank of the Tickfaw river, and fronting on the same about 770 perches, from the confluence of the Tickfaw with the Notalbany river, and bounded on all sides by vacant lands.

6th. One of 7½ arpens, situated in the said Tickfaw district, about 150 perches from the entrance of the said river into the lake Maurepas, and bounded on all sides by vacant lands; and

7th. One of 700 superficial arpens, situated in the Panchatula district, (barrio de Panchatula,) bounded on all sides by public lands, as particularly described in the seven plans representing the said tracts respectively, and the process verbal and certificate of the said Carlos Trudeau, which are hereto annexed as exhibits.

Your petitioners further shew, that the said surveys, made in pursuance of said order of survey, as recited in the said process verbal and certificate of the said Carlos Trudeau, royal surveyor as aforesaid, constituted such a title as vested in the said power rights which were protected or secured by the treaty between the United States of America and the French Republic, of the 30th of April, 1803, and might have been, and indeed would have been, perfected into a complete title, made in conformity to the laws, usages, and customs of the Spanish government, under which the same originated, had not the sovereignty of the country been transferred to the United States.

Your petitioners further shew, that they do not know whether the said claim has been submitted to any of the tribunals constituted by law for the adjustment of land titles in the State of Louisiana; that they are not now in possession of any part thereof, and that they are now, by an act of Congress, approved on the 17th day of June, 1844, entitled "An act to provide for the adjustment of land claims," &c., authorized to submit their said claim to this honorable court, in order that the validity of the same may be inquired into, and that this court is thereby authorized to hear and determine the same.

Wherefore your petitioners pray that a copy of this petition, with a citation, may be served on the district attorney of the United States,

according to law, for the eastern district of Louisiana; and legal proceedings had, this court by a final decree adjudged [illegible] claim to thirty thousand acres as aforesaid to be valid, and confirm the same.

Petitioners further pray that, if it should happen that the lands, of which petitioners are decreed to be the owners under the provisions of said act, have been sold or otherwise disposed of by the United States, or if the same shall not have been heretofore located, that then, in each and every such case, it shall and may be lawful for petitioners to enter, after the same shall have been offered at public sale, the like quantity of land in parcels conformable to sectional divisions and subdivisions, in any land office in the State of Louisiana.

Petitioners pray for all and general relief.

(Signed) JANIN & TAYLOR,
Attorneys for petitioners.

For exhibits said to be annexed, vide folios 13–22 of this transcript.

And thereupon, at the same term, to wit, on the thirty-first day of May, A. D. 1849, was issued from the clerk's office the following

Citation.

United States of America—the President of the United States, to the marshal of the eastern district of Louisiana, greeting:

You are hereby commanded to summon Logan Hunton, esq., U. S. attorney for said district, to appear before the honorable the judge of the district court of the United States for said district, at a district court to be holden on the sixteenth day of June, 1849, then and there to answer a petition or bill in chancery, filed against the United States, wherein the Heirs of Power are complainants, and said United States of America are defendants; answer to be filed on or before said day, else said petition or bill may be taken pro confesso.

Herein fail not, and have you then and there this writ, with your endorsement thereon, how you have executed the same.

Witness the honorable Theodore H. McCaleb, judge of the district court of the United States of America, for the eastern district [L. S.] of Louisiana, this 31st day of May, in the year of our Lord one thousand eight hundred and forty-nine, and the 73d year of American independence.

(Signed) ROBT. M. LUSHER, *D'y Clerk.*

Whereon was duly registered, on the first day of June, A. D. 1849, in the clerk's office, the following

Marshal's return.

Rec'd 31st May, 1849, and on the same day served copy of the within citation and petition annexed on Logan Hunton, esq., U. S. attorney, personally in this city.

Return'd June 1, 1849.

(Signed) CHAS. A. LABUZAN, *D'y Marshal.*

[illegible]wards, at the same term, to wit, on the seventh day of June, A. D. 1849, appeared the defendants, by their attorney, Logan Hunton, esq., and in the clerk's office filed the following

Demurrer.

In the district court of the United States, for the eastern district of Louisiana, before the honorable Theodore H. McCaleb, judge.

THE HEIRS OF POWER vs. THE UNITED STATES. } No. 146.

The demurrer of the United States, defendants, to the petition and bill of complaint of the Heirs of Power.

And now comes Logan Hunton, attorney of the United States, for the eastern district of Louisiana, and not confessing or acknowledging any of the facts and allegations in the petitioners' bill of complaint and petition contained, he demurs in law to said bill of complaint and petition, and says he is not bound to answer the same.

And for cause of demurrer the attorney aforesaid shows: That the said petitioners have not, by their bill, made such a case as entitles them to relief under the act of the Congress of the United States, approved on the seventeenth day of June, in the year one thousand eight hundred and forty-four, entitled "An act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and in those parts of the States of Alabama and Mississippi south of the thirty-first degree of north latitude and between the Mississippi and Perdido rivers," for this, that the benefits and advantages of bringing suit against the United States, conferred by said act, were extended only to two years from and after the date of the approval of the same; and no bill of complaint or petition could, or can, be brought against the United States after the lapse of two years after the date of approval of said act, and that no bill of complaint or petition could or can be filed after the seventeenth day of June, one thousand eight hundred and forty-six.

Wherefore, and for divers other good causes of demurrer appearing in the said bill of complaint and petition, the attorney of the United States aforesaid doth demur thereunto, and to all the matters and things therein contained, and prays the judgment of this honorable court whether he shall be compelled to make any further or other answer to the said petition, and he prays to be hence dismissed with costs.

(Signed) LOGAN HUNTON,
U. S. Att. east. dist. of Louisiana.

And afterwards, at the same term, to wit, on the eleventh day of June, A. D. 1849, the following entry was made of record on the minutes of the court:

Present, hon. Theo. H. McCaleb.

HEIRS OF THOMAS POWER
vs. } No. 146.
THE UNITED STATES.

The demurrer to plaintiffs' petition, filed therein on the 7th instant, was to-day taken up by consent, and, after argument, overruled by the court; and it was ordered that defendant's answer to the merits of the case.

And thereafter, at the same term, to wit, on the twelfth day of June, A. D. 1849, appeared the defendants, by their attorney, and filed in the clerks' office the following

Answer.

THE HEIRS OF THOMAS POWER
vs. } No. 146.
THE UNITED STATES.

To the honorable Theodore H. McCaleb, judge of the district court of the United States, for the eastern district of Louisiana.

The answer of Logan Hunton, attorney of the United States for the eastern district of Louisiana, and of the defendants to the bill of complaint and petition of the heirs of Thomas Power, complainants and petitioners.

The attorney of the United States aforesaid, now and at all times hereafter, reserving to himself the benefit, *and all* and all manner of advantage of exception, which can or may be had or taken to the many errors, uncertainties, and other imperfections in the said complainants' bill of complaint and petition contained, for answer thereto, or unto so much thereof as the attorney aforesaid and the defendants are advised, is or are material for them, or necessary for them, to make any vnswer unto; they say that the present action is brought too late, because more than two years had elapsed before the filing of the petition, since the seventeenth day of June, one thousand eight hundred and forty-four, and that by law the suit could only be brought within two years after that date.

And further answering the attorney of the United States aforesaid saith, that he is a stranger to the several matters and things in the said complainants' said bill of complaint and petition set forth and alleged, and of all of them he demands that the petitioners be held to full and strict proof.

And the attorney of the United States aforesaid further saith, that he claims all such rights and interests under the treaties, laws, and statutes of the United States, pertinent to this matter, for and on behalf of the United States, as this honorable court may be of opinion the said United States are entitled to.

All of which matters and things this defendant, the attorney of the United States aforesaid, is ready and willing to aver, maintain, and

court shall direct, and humbly prays to be hence dismissed with costs.

(Signed) LOGAN HUNTON,
United States att'y, east'n dist. of La.

And further, on the same day, to wit, the 12th day of June, A. D. 1849, was taken, in open court, the testimony hereinafter copied on pages 23 and 24 of this transcript.

And afterwards, at the same term, to wit, on Thursday, the fourteenth day of June, A. D. 1849, the said cause of the Heirs of Thomas Power vs. The United States, No. 146, was regularly taken up for hearing before the court, and the following documents, to wit, Doc. A, comprising seven original plats, and a certificate of survey, and the depositions of A. Cruzat and Ls. Bringier, taken in relation thereto, were offered in evidence by the plaintiffs, and admitted by the court, to wit:

Evidence.

1. Doc. A, purporting to be seven original plats or plans of survey made by Carlos Trudeau, surveyor general, &c., together with his certificate annexed to and made part of said document, the whole being comprised between pages 13 and 22 (inclusive) of this transcript, as hereinafter appears:

[*Pages* 13, 14, 15, 16, 17, 18, *and* 19, *maps, for which see original.*]

Don Carles Trudeau, agrimensor real y particular de la provincia de la Luisiana, etc.

Certifico, que fue verificado, lindado, y amojonado à favor y en presencia de Don Thomas Power, veinte y dos mil setecientos noventa y dos arpanes planos, quienes son parte de los trenta mil arpanes planos, concedidos a titulo de venta por la real hacienda, segun el decreto del Señor Intendente Gen'l, Don Juan Bentura Morales, en fecha del dia del mes de Octubre, del corriente año. Cuyos terrenos todos situados en la jurisdicion de Baton Rouge, y forme siete puños de tierra differente.

Plano No. 1.—El primero paño, conforme al plano No. 1, de nueva mil quatro cientos y cinquenta arpanes planos, situados en el barrio de Santa Helena, sobre el margen derecho y en frente del rio Amit, a como nueva millas de la linea de los trenta y uno grados de latitude norte, linda a la parte del este, con la orilla derecha del rio Amit, al norte con un terreno ocupada por el nombo. Curtis, al sur con otro terreno medido a favor del mismo Don Thomas Power, y al œste con tierras vacantes.

Plano No. 2.—El segundo paño, conforme al plano No. 2, de seis cientos sesenta y seis arpanes planos, situados en el mismo barrio de Santa Helena, en frente y sobre el margen derecho del rio Amit, a como quinze millas al sur de la linea de los trenta y uno grados de latitude norte, lindado a la parte del este, con la orilla derecha del rio Amit, al norte y sur con otras tierras medidas a favor del mismo interresado, y al œste con tierras vacantes.

...court, as this honorable court shall direct; and humbly prays to be hence dismissed with costs.

(Signed) LOGAN HUNTON,
United States att'y, east'n dist. of La.

And further, on the same day, to wit, the 12th day of June, A. D. 1849, was taken, in open court, the testimony hereinafter copied on pages 23 and 24 of this transcript.

And afterwards, at the same term, to wit, on Thursday, the fourteenth day of June, A. D. 1849, the said cause of the Heirs of Thomas Power vs. The United States, No. 146, was regularly taken up for hearing before the court, and the following documents, to wit, Doc. A, comprising seven original plats, and a certificate of survey, and the depositions of A. Cruzat and La. Bringier, taken in relation thereto, were offered in evidence by the plaintiffs, and admitted by the court, to wit:

Evidence.

1. Doc. A, purporting to be seven original plats or plans of survey made by Carlos Trudeau, surveyor general, &c., together with his certificate annexed to and made part of said document, the whole being comprised between pages 13 and 22 (inclusive) of this transcript, as hereinafter appears:

[*Pages* 13, 14, 15, 16, 17, 18, *and* 19, *maps*, for which see original.]

Don Carlos Trudeau, agrimensor real y particular de la provincia de la Luisiana, etc.

Certifico, que fue verificado, lindado, y amojonado à favor y en presencia de Don Thomas Power, veinte y dos mil setecientos noventa y dos arpanes planos, quienes son parte de los trenta mil arpanes planos, concedidos a titulo de venta por la real hacienda, segun el decreto del Señor Intendente Gen'l, Don Juan Bentura Morales, en fecha del dia del mes de Octubre, del corriente año. Cuyos terrenos todos situados en la jurisdicion de Baton Rouge, y forme siete puños de tierra differente.

Plano No. 1.—El primero paño, conforme al plano No. 1, de nueva mil quatro cientos y cinquenta arpanes planos, situados en el barrio de Santa Helena, sobre el margen derecho y en frente del rio Amit, a como nueva millas de la linea de los trenta y uno grados de latitude norte, linda a la parte del este, con la orilla derecha del rio Amit, al norte con un terreno ocupada por el nombo. Curtis, al sur con otro terreno medido a favor del mismo Don Thomas Power, y al œste con tierras vacantes.

Plano No. 2.—El segundo paño, conforme al plano No. 2, de seis cientos sesenta y seis arpanes planos, situados en el mismo barrio de Santa Helena, en frente y sobre el margen derecho del rio Amit, a como quinze millas al sur de la linea de los trenta y uno grados de latitude norte, lindado a la parte del este, con la orilla derecha del rio Amit, al norte y sur con otras tierras medidas a favor del mismo interresado, y al œste con tierras vacantes.

Plano No. 3.—El tercero paño, conforme al plano No. 3, de [illegible] mil ochocientos y cinquenta arpanes planos, situados en el mismo antede. barrio de Santa Helena, sobre el margen derecho y en frente del rio Amit, a como diez y seis millas de la linea de los trenta y uno grados de latitudé norte, lindado al norte con otra tierra medida a favor del mismo Power, y a los demos lados con tierras vacantes.

Plano No. 4.—El quarto paño, conforme al plano No. 4, de seis mil ciento y nueve arpanes planos, situados en el barrio de Nitalbany, sobre el margen exquiendo et en frente del mismo rio, lindado a todos lados con tierras vacantes.

Plano No. 5.—El quinto paño conforme al plano No. 5, de nueve y medio arpanes planos, situado en el barrio del Tickfau, sobre el margen exquiendo y en frente del mismo rio, a como ciento y sesenta perchas de la confluencia del Tickfau y del rio Nitalbany, lindado a todos lados con tierras vacantes (todas ciprieras.)

Plano No. 6.—El paño sexto, de siete y medio arpanes planos situado en el mismo barrio del rio Tickfau, a como ciento y cinquenta perchas, de su entrada en el rio digo lago Maurepas, lindado a todos lados con tierras vacantes (todas ciprieras.)

Plano No. 7.—El plano No. 7, de setecientos arpanes planos situados en el barrio del Punchatula, lindado a todos lados con tierras vacantes y del dominio de S. Md., todas aquellas tierras no son otra que pinas mediante que los antede. siete planos, formen los veinta y dos mil setecientos noventa y dos arpanes planos anteds. medidos a la percha de la ciudad de Paris, segun uso y costumbre de esta provincia, conforme a los siete planos que preceden, en cada de aquellos planos van figurado el terreno, y anotados las dimenciones y rumbos de los limites: todos derigidos N. y S., con E. y Œ. de la actual aguja, sin attender a la variacion, (declinando esta de ocho grados trenta minutas al N. E.) El todo demuestrado mas compleamente en los anteds. planos.

Y para que todo lo referido conste, doy la presente al fin que el interresado se presente para seguir las diligencias prevenidas, para la conclusion del asunto, a veinte y tres del mes de Deciembre de mil ochocientos y tres años.

(Signed) CARLOS TRUDEAU, *Ag. gral.*

Rego. en el libro No. 5, folo. 72, buelta y folo. 73.

N. B. The above and foregoing document is thus endorsed:

"Doc. A, referred to in depositions of Cruzat and Bringier, June 12th, 1849.

"Attest: ROBT. M. LUSHER, *D'y commissioner.*"

Evidence.

2d. Depositions of A. Cruzat and Ls. Bringier, as to Doc. A.

In court, Tuesday, June 12, 1849.

HEIRS OF THOMAS POWER vs. THE UNITED STATES. } 146.

Testimony in relation to Doc. A, offered in evidence on the trial of

[illegible] purporting to be seven several original plans of survey in favor of Thomas Powers, made in the year 1803, with the certificate thereto, in detail, of Carlos Trudeau.

Antoine Cruzat, esq., witness for plaintiffs, sworn, deposes as follows in relation to the above document:

That the successive signatures thereto of Carlos Trudeau, to plans Nos. 1, 2, 3, 4, and 5, and to the general certificate after all seven, are the true and genuine signatures of the said Carlos Trudeau, former surveyor general of the province of Louisiana; and that the paraphes or rubricas attached to plans No. 6 and 7, are his genuine paraphes.

Witness is now 74 years of age.

The attorney of the United States being present, propounds no cross questions.

(Signed) A. CRUZAT.

Attest: (Signed) ROBT. M. LUSHER,
D'y commissioner and d'y clerk of the court.

Louis Bringier, esq., also a witness for the plaintiffs, being likewise sworn, on examination of the said doc. A, corroborates in every respect the foregoing testimony of Antoine Cruzat, being well acquainted with the signature and paraphe of Carlos Trudeau.

Witness now has custody of the official documents formerly belonging to the office of the surveyor general of the province of Louisiana. He is 66 years of age.

No cross questions.

(Signed,) LS. BRINGIER.

Attest: (Signed,) ROBT. M. LUSHER,
Clerk of the court, and commissioner in land cause.

Close of evidence.

And thereafter, at the same term, and on the same day, was rendered and recorded the following

Judgment,

which was subsequently, to wit, on the 15th day of June, A. D. 1849, at the same term, engrossed as it hereinafter appears, and signed, viz:

U. S. district court, May term, 1849, *Thursday, June 14th,* 1849.

Present, hon. Theo. H. McCaleb.

HEIRS OF POWER vs. THE UNITED STATES. } No. 146.

This cause came on this day to be heard upon the petition and an-

swer, and the evidence adduced by the parties, and their arguments was submitted to the court.

And the court having maturely considered the same, and being satisfied from the evidence that, on the 10th day of October, 1803, Jean Ventura Morales, chief of the financial and land department of the province of Louisiana, under the government of Spain, made a concession, by sale, to Thomas Power, then a resident of the said province of Louisiana, of thirty thousand superficial arpents of land, situated in the jurisdiction of Baton Rouge, now forming a part of the State of Louisiana; and that on or before the 23d of December, 1803, Carlos Trudeau, then royal surveyor of the said province, did, in obedience to an order of survey made by the said Morales in his capacity of intendant general, survey in favor of the said Thomas Power, (22,792) twenty-two thousand seven hundred and ninety-two arpents in seven distinct tracts or parcels, as appears from the plats and process verbal or certificate of the said surveyor on file, and marked A.

And being further satisfied that the petitioners are the heirs and legal representatives of the said Thomas Power, and being satisfied that the said concession, order of survey, and surveys made in obedience thereto, were and are good and valid, as made by the said Spanish Government in favor of the said Thomas Power, and that the same are protected by the treaty made between the United States and the French Republic, on the 30th of April, 1803, as well as by the laws of nations, and the Constitution and laws of the United States, and might have been perfected into a complete title under and in conformity to the laws, usages, and customs of the government under which the same originated and were made, had not the sovereignty of the country been transferred to the United States. This court, acting under and by virtue of the act of Congress of the 26th of May, 1824, entitled, "An act enabling the claimants to lands within the limits of the State of Missouri and territory of Arkansas, to institute proceedings to try the validity of their claims;" and also an act, approved on the 17th of June, 1844, entitled "An act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and in those parts of the States of Mississippi and Alabama south of the 31st degree of north latitude, and between the Mississippi and Perdido rivers," doth order, adjudge, and decree, and it is hereby ordered, adjudged, and decreed, that the petitioners, Felicité Blanche, the widow of Jean Baptiste Vidal, and Michel Commagère, the latter herein acting as natural tutor of Thomas Emile, Joséphine Alcidée, Antonia Athénaïs, and Cécile Blanche Commagère, his four minor children, and the issue of his marriage with the late Joséphine Power, the heirs and legal representatives of Thomas Power, deceased are the true and legal owners of, and have good title against the United States, the defendants, in and to the lands claimed in their petition, and conceded, ordered to be surveyed, and surveyed as aforesaid, to wit:

First. A tract of nine thousand four hundred and fifty superficial arpents, situated in the St. Helena district, on the right bank of the Amite

river and fronting thereon, about nine miles from the parallel of the first degree of north latitude, bounded on the east by the Amite river, on the north by lands of one Curtis, and on the south by another tract surveyed in favor of the said Power.

Second. A tract of six hundred and seventy-six arpents superficial, situated in the same district of St. Helena, fronting on the right bank of the said Amite river, about fifteen miles south of the said parallel of latitude, and bounded on the east by the said river Amite, and on the north and south by other lands surveyed in favor of the said Power.

Third. A tract of five thousand eight hundred and fifty superficial arpents, also in the same district of St. Helena, on the right bank of the said river Amite, and fronting on the same about sixteen miles from the said parallel of latitude, bounded on the north by other lands surveyed in favor of the said Power, and, on the other side, by public lands.

Fourth. A tract of six thousand one hundred and nine superficial arpents, situated in the Nitalbany district, on the right bank of the river Amite, and fronting thereon, and bounded on all sides by vacant lands.

Fifth. A tract of nine and a half arpents in superficies in the Tickfaw district, on the left bank of the Tickfaw river, and fronting on the same, about 170 perches from the confluence of the Tickfaw with the Nitalbany river, and bounded on all sides by vacant lands.

Sixth. A tract of seven and a half arpents in superficies in the Tickfaw district, about 150 perches from the entrance of the said river into Lake Maurepas, and bounded on all sides by vacant lands.

Seventh. A tract of seven hundred superficial arpents, situated in the Panchatula district, bounded on all sides by public lands;

as is represented and described in the said plats of survey and the certificate or procès verbal of the same, marked A, and on file as aforesaid.

And it is further ordered, adjudged, and decreed that, in case said lands so claimed by the said plaintiffs, or any part or portion thereof, shall have been sold or otherwise disposed of by the United States, said plaintiffs shall be, and they are hereby authorized to enter, in any land office of the United States in the State of Louisiana, in parcels conformable to sectional divisions and subdivisions, a like quantity of public lands, after the same shall have been offered at public sale.

Judgment rendered, June 14th, 1849.

Judgment signed, June 15th, 1849.

(Signed) THEO. H. McCALEB, [SEAL.]
U. S. Judge.

And further, and finally, at the same term, to wit, on the fifteenth day of June, A. D. 1849, on motion made in open court, the following

Order of appeal

Was entered of record, viz:

May term, 1849.

Friday, June 15, 1849.

Before the honorable Theo. H. McCaleb.

On motion of Logan Hunton, esq., attorney of the United States for the eastern district of Louisiana, and of Thomas J. Durant, esq., on the same behalf; and on giving the court to understand and be informed that the United States are injured and aggrieved by the judgment of this honorable court rendered against them at this term, in the matter of

THE HEIRS OF THOMAS POWER
vs.
THE UNITED STATES. } No. 146.

And desire to appeal therefrom:

It is, therefore, ordered by the court, that an appeal be allowed in favor of the United States, from the judgment aforesaid, returnable to the Supreme Court of the United States, at the next term thereof, after the date of this order.

UNITED STATES OF AMERICA,
Eastern district of Louisiana.

I, Needler R. Jennings, clerk of the district court of the United States, sitting at New Orleans, in and for said district, do hereby certify, that the foregoing twenty-nine folios, including plans on folios 13, 14, 15, 16, 17, 18, and 19, contain and form a true, faithful, correct, and complete transcript of all the proceedings, process, pleadings, documents, and other matters on file and of record in a certain cause in chancery, wherein the heirs of Thomas Power are plaintiffs, and the United States of America defendants, No. 146 of the land docket of said court.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the city of New Orleans, this thirty-first day of [L. S.] August, one thousand eight hundred and forty-nine, and the 74th year of American independence.

N. R. JENNINGS,
Clerk U. S. district court, eastern district of Louisiana.

I, Theodore H. McCaleb, judge of the district court of the United States, for the eastern district of Louisiana, do certify, that N. R. Jennings, who subscribed the above certificate, was, at the time of signing the same, and is now, the duly appointed and legally authorized clerk of said court; that full faith and credit are due and ought to be given to all his attestations as such clerk, and that his above certificate is in due form of law.

Witness my hand and seal at New Orleans, this 24th day of September, A. D. 1849.

THEO. H. McCALEB. [SEAL.]

The United States of America, to Felicité Blanche, widow of Jean Baptiste Vidal, and Michel Commagère, as natural tutor of his four minor children by the late Joséphine Power, heirs, &c., of Thomas Power, deceased, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to an order of appeal granted on the fifteenth day of June, 1849, by the district court of the United States, in and for the eastern district of Louisiana, in a certain cause in chancery, under the acts approved May 26th, 1824, and June 17th, 1844, entitled (No. 146,) Heirs of Thomas Power vs. the United States, wherein the said United States of America are now appellants, and you are appellees, to show cause, if any there be, why the judgment rendered against the appellants, as in the said order of appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness hereto my hand and the seal of the said court, at the city of New Orleans, this twenty-fourth day of September, A. D. 1849.

[L. S.]

THEO. H. McCALEB, [SEAL.]
Judge of U. S. district court, eastern district of Louisiana.

LS. JANIN & M. TAYLOR,
Attorneys.

Attest: ROBT. M. LUSHER, *D'y Clerk.*

Marshal's return.

Rec'd Oct. 19th, 1849, and on the 24th Oct., 1849, served a copy of the within citation of appeal on Ls. Janin, esq., one of the attorneys for the plaintiffs, by handing the same to him in person at New Orleans, and who at the time accepted service for the plaintiffs.

M. M. THOMAS,
Deputy U. S. marshal, eastern district Louisiana.

Return registered Oct. 30, 1849.

ROBT. M. LUSHER, *D'y Clerk.*